

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Dixie Leon,**  
Appellant,

v.

**Wapello County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-90-0344**  
**Parcel No. 00741730032000**

On December 4, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Brooke Ellis is the representative for Dixie Leon. Dixie Leon represented herself at hearing. Wapello County Attorney Gary Oldenburger is counsel for the Board of Review and represented it at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

***Findings of Fact***

Dixie Leon is the owner of a residentially classified property located at 430 S Webster, Ottumwa, Iowa. It is a one-story property built in 1948 with a partially finished attic totaling 1324 square feet of living area and a full, unfinished basement. The dwelling is listed in normal condition with 27% depreciation and a total of 30% obsolescence. It has 200 square-foot detached garage and an attached carport that is used as a covered patio. The site is 0.159 acres.

Leon protested to the Board of Review regarding the 2014 assessment, which changed from the previous year making all grounds for appeal under section 441.37 available to her. Iowa Code § 441.37(1)(a)(1) (2014). The 2014 assessment was \$39,582, allocated as \$4582 in land value and \$35,000 in improvement value. She claimed the property is assessed for more than the value

authorized by law under section 441.37(1)(a)(1)(b); and that there was an error in the assessment under section 441.37(1)(a)(1)(d). Her error claim reasserts her opinion that the subject's assessment is more than market value because of the poor condition of the improvements. She asserted the correct value is \$10,000. The Board of Review denied her claim.

Leon then appealed to this Board.

Leon submitted seven photographs that show some settlement and drainage issues in the basement, as well as some other deferred maintenance of the property. (Exhibit 1). She also submitted two June 2014 letters from Ottumwa Water and Hydro advising her that the subject property requires immediate repairs to the water line that if not remediated will result in the water main being shut off and an assessment applied to her water bill. (Exhibit 2). Leon included a receipt that appears to indicate some action has been taken to repair the water line. (Exhibit 2). At the hearing Leon testified the repairs had actually, and incorrectly, been done on another property she owns.

Lastly, Leon submitted a September 2014 letter from Cameron Insurance Companies, which insures a variety of her properties, including the subject property. The letter notes that Leon's insurance policies are being cancelled due to several deficiencies "for all locations" of her properties. The list of deficiencies include: unsafe wiring, foundation issues, unstable and boarded up windows, renovations being completed while occupied by tenants, decaying siding, chipping paint, trash, debris, housekeeping habits, pools and trampolines. (Exhibit 3). The letter does not list the properties owned by Leon, however she asserts it includes the subject property. In Leon's opinion, these exhibits demonstrate the subject property is in poor condition.

We note that the water line issue and insurance cancellation occurred well after the relevant assessment date of January 1, 2014, and we give them no consideration. Despite the remaining evidence and testimony concerning the property's condition, Leon testified that she was not ready for the Assessor's office to inspect the interior of the property to confirm its condition. Leon's

photographs show isolated property deficiencies, but we find they are insufficient to establish the property's overall condition. None of the evidence submitted by Leon established a market value of the subject property. Leon did not provide any evidence, such as an appraisal, comparable sales, or other approach to valuation, to demonstrate the market value of the subject property.

Wapello County Assessor Gary Smith testified about the history of the subject's assessment as shown in the following chart.

Assessment Year	Assessed Value
2009 - 2012	\$63,910
2013	\$9362
2014	\$39,582

The assessed value from 2009 to 2012 remained unchanged. It was dramatically reduced in 2013 because the City had "placquered" the property, which means it was considered uninhabitable; therefore, Smith lowered that value to reflect this situation. In 2014, the value increased to \$39,582 because the City permitted the property for occupancy, but Smith testified he recognized it was not in great condition, which he took into consideration with a value lower than the previous years.

The Board of Review also submitted an appraisal by Kraig Van Hulzen of Van Hulzen Appraisal Services, Oskaloosa, Iowa. Van Hulzen performed an exterior inspection of the subject property, developed the sales comparison and cost approach to value, and concluded an opinion of value of \$50,000, as of January 1, 2014. Although Van Hulzen's opinion is based on an exterior inspection and there is an assertion it does not reflect the actual condition of the property, it is the only evidence in the record of the market value.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply.

Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Leon did not submit any evidence of the fair market value of the subject property, such as an appraisal or an income approach to value. Therefore, she fails to support her claim the property is over-assessed.

The plain language of section 441.37(1)(a)(1)(d) allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(1)(d). Leon alleged errors in the listing of her property

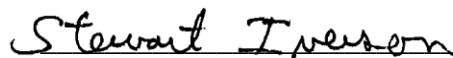
regarding the condition rating. Although Leon submitted some pictures of the interior, we do not find it adequately confirms the condition rating is incorrect. (Exhibit 1). We urge Leon to consider allowing an interior inspection by the Assessor's Office to ensure that no listing errors exist.

THE APPEAL BOARD ORDERS the 2014 assessment of Dixie Leon's property located at 430 S Webster, Ottumwa, Iowa, set by the Wapello County Board of Review, is affirmed.

Dated this 13th day of January, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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